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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/981,516
Filing Date: October 17, 2001
Appellant(s): SHAYA ET AL.

MAILED

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GROUP 3600

Michael P. Dunnam
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 13, 2007 appealing from the Office action mailed November 2, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,029,195	HERZ	2-2000
6,321,221	BIEGANSKI	11-2001 *
6,438,579	HOSKEN	8-2002
6,782,307	WILMOTT ET AL.	8-2004

* Beiganski was cited as U.S. Patent No. 6,412,021 which is incorrect. The correct patent number is shown above.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1- 4, 8, and 13-27 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,029,195 to Herz.

Regarding claims 1 and 103, Herz discloses a method and a computer readable medium for formulating individualized product recommendation comprising: receiving a first set of data from a consumer regarding a target substrate that includes a requirement to be addressed by a product (target profile col. 4, lines 49-54); generating a set of individualized product recommendation for the consumer from a plurality of products within a product category with the assistance of one or more computing devices, the generating (abstract); feeding the first set of data as inputs into an intelligent performance-based product recommendation engine (col. 4, lines 58-61; col. 5, lines 14-16; col. 7, lines 9-16; col. 26, lines 1-5); classifying the consumer, based on the inputs, in a population of consumers who previously used a product in the product category in connection with a substantially similar substrate and who are substantially similar to the consumer (col. 4, lines 64-67; col. 5, lines 30-36; col. 6, lines 54-58; col. 12, lines 26-31; col. 24, lines 42-67); determining, based on the inputs and the classification of the consumer, a likelihood that the products in the product category will address the requirement with a predefined level of success when used in connection with the target substrate (col. 5, lines 14-20; Figure 12; col. 6, lines 38-58; col. 7, lines 6-16; col. 7, lines 63-66); and selecting a set of products from the product category having a predefined likelihood of successfully addressing the requirements, the selected set of products comprising the set of individualized product recommendations (col. 5, lines 14-20; Figure 12; col. 7, lines 6-16; col. 8, lines 3-5).

Regarding claims 2-4 and 8, Herz discloses receiving a concern about the substrate (col. 12, lines 27-30; col. 12, lines 33-38; col. 28, lines 55-63); severity of the

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concern (col. 12, lines 27-30; col. 12, lines 33-38; col. 28, lines 55-63); and importance of the concern (col. 12, lines 27-30; col. 12, lines 33-38; col. 28, lines 55-63); and a third set of data from the consumer comprising personal profile information about the consumer (col. 4, lines 54-55).

Regarding claims 13-17, Herz discloses producing a first of products and a scored predicted and performance utility; producing a first list of top-N products and a scored predicted and performance; and a first list of products and a purchase price (col. 1, lines 27-32; . Herz discloses a system that evaluates the target profiles against the user's target profile interest summaries to generate a customer-customized rank ordered listing of target objects most likely to be of interest to each user so that the user can select from among these potentially relevant target object (col. 1, lines 27-32; col. 67, lines 54-62; col. 22, lines 29-44).

Regarding claims 18-22, Herz discloses generating ancillary information from the product recommendation engine inputs regarding effects of at least of the products and the condition of the target substrate relative to a designated population of consumers (col. 1, lines 27-34; col. 4, lines 64-col.5, line 5; col. 24, lines 40-col.25, line 10); and communicating the set of individualized product recommendations to the consumer (col. 1, lines 27-34); and web page (col. 8, lines 18-21).

Regarding claims 23-27, Herz discloses the receiving feedback from the consumer regarding use of a product to treat the target substrate; feedback from the consumer regarding use of previously recommended product; receiving preference data regarding the product; performance data; and retraining the product recommending

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engine based on the feedback (col. 6, lines 39-58; col. 7, lines 4-6; col. 18, line 9-col. 19, line 7).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,029,195 to Herz in view of U.S. Patent No. 6,412,021 to Bieganski.

Regarding claims 5-7, Herz substantially disclose the claimed invention, however, it does not disclose comprising receiving a second set of data from the consumer, the second set comprising of historical product data; and the historical data comprises receiving performance data for products and preference data for products. Herz discloses past user behavior (col. 48, lines 49-51).

Bieganski, on the other hand, teaches receiving a second set of data from the consumer, the second set comprising of historical product data; the historical data comprises receiving performance data for products and preference data for products (col. 8, lines 15-38).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Herz, to include receiving a second set of data from the consumer, the second set comprising of historical product

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data; and the historical data comprises receiving performance data for products and preference data for products, as taught by Bieganski, in order to provide accurate recommendations (Bieganski, col. 5, lines 3-4).

Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,029,195 to Herz in view of U.S. Patent No. 6,438,579 to Hosken.

Regarding claims 9-12, Herz substantially discloses the claimed invention, however, it does not explicitly disclose the particular data processing portion (a neural network portion, a collaborative filter portion, a content-based portion, and cascaded content-based filter. Herz discloses a system that evaluates the target profiles against the user's target profile interest summaries to generate a customer-customized rank ordered listing of target objects most likely to be of interest to each user so that the user can select from among these potentially relevant target object, which were automatically selected by the system from the plethora target objects that are profiled on the electronic media (col. 1, lines 27-34). The ability to measure the similarity of provides describing target objects and a user's interest can be done in two ways filtering and browsing (col. 7, lines 52-54).

Hosken, on the other hand, teaches the particular data processing portion a neural network portion, a collaborative filter portion, a content-based portion, and cascaded content-based filter (col. 1, lines 47-48; col. 2, lines 23-28).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Herz, to include a neural network portion, a collaborative filter portion, a content-based portion, and cascaded

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content-based filter, as taught by Hosken, in order to provide recommendations that are particularly tailored to the personalized interests of a user (Hosken, col. 2, lines 65-68).

Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,029,195 to Herz in view of U.S. Patent No. 6,782,307 to Wilmott et al. Regarding claims 28-29, Herz substantially discloses the claimed invention, however, it does not explicitly disclosing receiving a first set of data about the consumer's skin and the generation a set of individualized product recommendation for the consumer step comprises generating a set of individualized product recommendation from a plurality of skin-care products; and payment. Herz discloses the system can be used in applications which can include cosmetics as well as informal solution to problems of individuals based on their unique life and professional experiences and encounters (col. 85, lines 30-32).

Wilmott, on the other hand, teaches receiving a first set of data about the consumer's skin and the generation a set of individualized product recommendation for the consumer step comprises generating a set of individualized product recommendation from a plurality of skin-care products (Figures X3A - X3C; Figure X2); and payment (col. 9, line 46; col. 9, line 60).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Herz, to include a first set of data about the consumer's skin and the generation a set of individualized product recommendation for the consumer step comprises generating a set of individualized product recommendation from a plurality of skin-care products and payment, as taught by

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Wilmott, in order to a method that provides a customized cosmetic or pharmaceutical product (Wilmott, col. 1, lines 50-51) and accept payment at a point-of sale location (Wilmott, col. 1, lines 59; col. 9, lines 56-60).

(10) Response to Argument

Preliminary Note: The Examiner has adopted Appellants' outline format for use in addressing Appellants' arguments.

1. Herz Is Fundamentally Different From Applicants' Method and Medium

Appellants remark that "nothing in Herz corresponds to the target substrate in Appellants' claims, nothing in Herz corresponds to the consumer providing a need or want to be addressed by products when used in connection with the target substrate, nothing in Herz corresponds to classifying the consumer population of substantially similar who used products in the past, nothing in Herz corresponds to determining likelihoods of how products in a product category would perform if used in connection with the consumer-designated target substrate".

The Examiner does not agree. Herz discloses a system for customized electronic identification of desirable objects (products), which uses a methodology for matching users (consumers) and target objects (products) by automatically calculating, and using profile information that describes both the users' interests and the target objects' characteristics (col. 6, lines 16-22). The system includes a profile processing module which estimates each user's interest in various target objects by reference to

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the users' target profile interest summaries, for example by comparing the target profiles of these target objects against the search profiles in users' search profiles sets and generates for each user a customized rank-ordered listing of target objects most likely to be of interest to that user (col. 7, lines 9-16). The target objects may be purchasing items (col. 6, lines 22-23), which include an item to buy (col. 6, lines 25-27). The system automatically constructs both a target profile for each target object and target profile interest summary for each user, which describes the user's interest level in various types of target objects (col. 5, lines 6-13). The target profile interest summary (target substrate) for a user represents multiple areas of interest, for example, by consisting of a set of individual search profiles (target substrate), each of which identifies one of the user's areas of interest (col. 5, lines 21-25). The search profiles can be determined for a new user by asking the user to specify search profiles directly by giving keywords and/or numeric attributes, using copies of the profiles of target objects or target clusters that the user indicates are representative of his or her interest, or by using a standard set of search profiles copied or otherwise determined from search profile sets of people who are demographically similar to the user (col. 63, lines 12-23). Herz also discloses computed similarity measurements which function to enable users to locate the desired target objects (col. 9, lines 31-34). The information delivery process is based on determining the similarity between a profile for the target object and the profiles of target objects for which the user or a similar user has provided positive feedback in the past (col. 6, lines 39-43). The task is to help the user identify the most interesting target objects, where the user's interest in a target object is defined

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to be a numerical measurement of the user's relative desire to locate that object rather than others (col. 10, lines 32-36). The system stores several pieces of information about each target objects, which are termed attributes that collectively form a profile of the target object or a target profile (col. 10, lines 41-46). There are three kinds of attributes, which include numeric, textual, and associative (col. 11, lines 44-45).

Numeric attributes include the price of a product and rating given to a movie, etc (col. 6, lines 51-52). Associative attributes include list of persons who have read a document (col. 6, lines 52-54) or list of customers who have previously rented a particular movie (col. 11, lines 5-6). Herz further discloses association-based clustering, in which profiles contain associative attributes; this kind of clustering generally clusters target objects based on the similarity of the users who like them or clusters users based on the similarity of the target objects they like (col. 14, lines 42-47). Herz also discloses user profiles which include an associative attribute that records the user's relevance feed back on all target objects (products) in the system, the profiling procedure forms a rough characterization of a new user's interests by soliciting the user's feedback on a small number of significant target objects and by determining a number of other key attributes of the new user by on-line queries, telephone surveys or other means (col. 28, lines 46-55). Once the new users are profiled, this predicts that the new user's interests resemble the known interest of other users with similar profiles (col. 28, lines 55-58). Moreover, Herz discloses a filtering system that can search through many target objects and estimate a given user's interest in each target object, so as to identify those that are of greatest interest to the user (col. 18, lines 10-13).

Such customized electronic identification of desirable objects which uses a methodology for matching users and target objects by automatically calculating and using profile information that describes both the users' interests and the target objects' characteristics; target object being an item; target profile interest summary for each user which consists of a set of individual search profiles that identifies the user's areas of interest by asking the user to specify search profiles directly by giving keywords and/or numeric attributes, using copies of the profiles of target objects or target clusters that the user indicates are representative of his or her interest, or by using a standard set of search profiles copied or otherwise determined from search profile sets of people who are demographically similar to the user; and the characterization of a new user's interests by soliciting the user's feedback on a small number of significant target objects and by determining a number of other key attributes of the new user by on-line queries, telephone surveys or other means are considered the target substrate (target profile interest summary/search profile sets) and the consumer providing a need or want to be addressed by products when used in connection with the target substrate.

Such similarity measurements which function to enable users to locate the desired target objects; associative attributes include list of customers who have previously rented a particular movie; information delivery process is based on determining the similarity between a profile for the target object and the profiles of target objects for which the user or a similar user has provided positive feedback in the past; clusters users based on the similarity of the target objects they like; profile processing module which estimates each user's interest in various target objects by reference to

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the users' target profile interest summaries, which compares the target profiles of these target objects against the search profiles in users' search profiles sets and generates for each user a customized rank-ordered listing of target objects most likely to be of interest to that user; and filtering system that can search through many target objects and estimate a given user's interest in each target object, so as to identify those that are of greatest interest to the user are considered classifying the consumer population of substantially similar who used products in the past and determining likelihoods of how products in a product category would perform if used in connection with the consumer-designated target substrate

Appellants remark that "Herz completely fails to address or provide any teaching of recommending target objects to its users for use in connection with a target substrate based on past performance of target objects in connection with substantially similar substrates substantially similar users".

The Examiner does not agree. Herz discloses a system for customized electronic identification of desirable objects (products), which uses a methodology for matching users (consumers) and target objects (products) by automatically calculating, and using profile information that describes both the users' interests and the target objects' characteristics (col. 6, lines 16-22). The system includes a profile processing module which estimates each user's interest in various target objects by reference to the users' target profile interest summaries, for example by comparing the target profiles of these target objects against the search profiles in users' search profiles sets and generates for each user a customized rank-ordered listing of target objects most likely

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to be of interest to that user (col. 7, lines 9-16). The target objects may be purchasing items (col. 6, lines 22-23), which include an item to buy (col. 6, lines 25-27). The system automatically constructs both a target profile for each target object and target profile interest summary for each user, which describes the user's interest level in various types of target objects (col. 5, lines 6-13). The target profile interest summary (target substrate) for a user represents multiple areas of interest, for example, by consisting of a set of individual search profiles (target substrate), each of which identifies one of the user's areas of interest (col. 5, lines 21-25). The search profiles can be determined for a new user by asking the user to specify search profiles directly by giving keywords and/or numeric attributes, using copies of the profiles of target objects or target clusters that the user indicates are representative of his or her interest, or by using a standard set of search profiles copied or otherwise determined from search profile sets of people who are demographically similar to the user (col. 63, lines 12-23). Herz also discloses computed similarity measurements which function to enable users to locate the desired target objects (col. 9, lines 31-34). The information delivery process is based on determining the similarity between a profile for the target object and the profiles of target objects for which the user or a similar user has provided positive feedback in the past (col. 6, lines 39-43). The system stores several pieces of information about each target objects, which are termed attributes that collectively form a profile of the target object or a target profile (col. 10, lines 41-46). There are three kinds of attributes, which include numeric, textual, and associative (col. 11, lines 44-45). Numeric attributes include the price of a product and rating given to a movie, etc (col. 6,

lines 51-52). Associative attributes include list of persons who have read a document (col. 6, lines 52-54) or list of customers who have previously rented a particular movie (col. 11, lines 5-6). Herz further discloses association-based clustering, in which profiles contain associative attributes; this kind of clustering generally clusters target objects based on the similarity of the users who like them or clusters users based on the similarity of the target objects they like (col. 14, lines 42-47). Herz also discloses user profiles which include an associative attribute that records the user's relevance feedback on all target objects (products) in the system, the profiling procedure forms a rough characterization of a new user's interests by soliciting the user's feedback on a small number of significant target objects and by determining a number of other key attributes of the new user by on-line queries, telephone surveys or other means (col. 28, lines 46-55). Once the new users are profiled, this predicts that the new user's interests resemble the known interest of other users with similar profiles (col. 28, lines 55-58). Moreover, Herz discloses a filtering system that can search through many target objects and estimate a given user's interest in each target object, so as to identify those that are of greatest interest to the user (col. 18, lines 10-13).

Such a profile processing module which estimates each user's interest in various target objects by reference to the users' target profile interest summaries, which compares the target profiles of these target objects against the search profiles in users' search profiles sets and generates for each user a customized rank-ordered listing of target objects most likely to be of interest to that user; constructing both a target profile for each target object and target profile interest summary for each user, which describes

the user's interest level in various types of target objects; similarity measurements which function to enable users to locate the desired target objects; information delivery process is based on determining the similarity between a profile for the target object and the profiles of target objects for which the user or a similar user has provided positive feedback in the past; profiling new users which predicts that the new user's interests resemble the known interest of other users with similar profiles; and filtering system that can search through many target objects and estimate a given user's interest in each target object, so as to identify those that are of greatest interest to the user are considered recommending target objects to its users for use in connection with a target substrate based on past performance of target objects in connection with substantially similar substrates substantially similar users.

2. Herz Does not Anticipate Claims 1 and 103

Appellants remark that "Herz fails to teach or disclose receiving a first set of data from a consumer, receiving a first set of data...regarding a substrate, and receiving a first set of data...that includes a requirement to be addressed by a product".

The Examiner does not agree. Herz discloses a system for customized electronic identification of desirable objects (products), which uses a methodology for matching users (consumers) and target objects (products) by automatically calculating, and using profile information that describes both the users' interests and the target objects' characteristics (col. 6, lines 16-22). The system includes a profile processing module which estimates each user's interest in various target objects by reference to

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the users' target profile interest summaries, for example by comparing the target profiles of these target objects against the search profiles in users' search profiles sets and generates for each user a customized rank-ordered listing of target objects most likely to be of interest to that user (col. 7, lines 9-16). The target objects may be purchasing items (col. 6, lines 22-23), which include an item to buy (col. 6, lines 25-27). The system automatically constructs both a target profile for each target object and target profile interest summary for each user, which describes the user's interest level in various types of target objects (col. 5, lines 6-13). The target profile interest summary (target substrate) for a user represents multiple areas of interest, which consist of a set of individual search profiles (target substrate), each of which identifies one of the user's areas of interest (col. 5, lines 21-25). The search profiles can be determined for a new user by inputting the new user's query (Figure 16, ref. no. 1602) or by asking the user to specify search profiles directly by giving keywords and/or numeric attributes, using copies of the profiles of target objects or target clusters that the user indicates are representative of his or her interest, or by using a standard set of search profiles copied or otherwise determined from search profile sets of people who are demographically similar to the user (col. 63, lines 12-23).

Such methodology for matching users and target objects by automatically calculating, and using profile information that describes both the users' interests and the target objects' characteristics; target profile interest summary for each user, which describes the user's interest level in various types of target objects; target profile interest summary for a user represents multiple areas of interest, which consist of a set

of individual search profiles, each of which identifies one of the user's areas of interest; and the search profiles which are determined for a new user by inputting the new user's query or by asking the user to specify search profiles directly by giving keywords and/or numeric attributes, using copies of the profiles of target objects or target clusters that the user indicates are representative of his or her interest, or by using a standard set of search profiles copied or otherwise determined from search profile sets of people who are demographically similar to the user are considered "receiving a first set of data from a consumer, receiving a first set of data...regarding a substrate, and receiving a first set of data...that includes a requirement to be addressed by a product".

Appellants remark that "Herz fails to teach or disclose classifying the consumer...in a population of consumers who previously used a product in the product category and who are substantially similar to the consumer".

The Examiner does not agree. Herz discloses computed similarity measurements which function to enable users to locate the desired target objects (products) (col. 9, lines 31-34). The information delivery process is based on determining the similarity between a profile for the target object and the profiles of target objects for which the user or a similar user has provided positive feedback in the past (col. 6, lines 39-43). The task is to help the user identify the most interesting target objects, where the user's interest in a target object is defined to be a numerical measurement of the user's relative desire to locate that object rather than others (col. 10, lines 32-36). The system stores several pieces of information about each target objects, which are termed attributes that collectively form a profile of the target object or

a target profile (col. 10, lines 41-46). There are three kinds of attributes, which include numeric, textual, and associative (col. 11, lines 44-45). Numeric attributes include the price of a product and rating given to a movie, etc (col. 6, lines 51-52). Associative attributes include list of persons who have read a document (col. 6, lines 52-54) or list of customers who have previously rented a particular movie (col. 11, lines 5-6). User profiles include an associative attribute that records the user's relevance feed back on all target objects (products) in the system, the profiling procedure forms a rough characterization of a new user's interests by soliciting the user's feedback on a small number of significant target objects and by determining a number of other key attributes of the new user by on-line queries, telephone surveys or other means (col. 28, lines 46-55). Once the new users are profiled, this predicts that the new user's interests resemble the known interest of other users with similar profiles (col. 28, lines 55-58). Herz further discloses association-based clustering, in which profiles contain associative attributes; this kind of clustering clusters target objects based on the similarity of the users who like them or clusters users based on the similarity of the target objects they like (col. 24, lines 42-47).

Such similarity measurements which function to enable users to locate the desired target objects; information delivery process which is based on determining the similarity between a profile for the target object and the profiles of target objects for which the user or a similar user has provided positive feedback in the past; associative attributes include list of customers who have previously rented a particular movie; profiling new users which predicts new user's interests that resemble the known interest

of other users with similar profiles; and clusters users based on the similarity of the target objects they like are considered "classifying the consumer...in a population of consumers who previously used a product in the product category and who are substantially similar to the consumer".

Appellants remark that "Herz fails to teach or disclose determining, based on the input and the classification of the consumer, a likelihood that the products in the product category will address the requirement....when used in connection with the target substrate".

The Examiner does not agree. Herz discloses a system for customized electronic identification of desirable objects, which uses a methodology for matching users and target objects by automatically calculating, and using profile information that describes both the users' interests and the target objects' characteristics (col. 6, lines 16-22). The system includes a profile processing module which estimates each user's interest in various target objects by reference to the users' target profile interest summaries, for example by comparing the target profiles of these target objects against the search profiles in users' search profiles sets and generates for each user a customized rank-ordered listing of target objects most likely to be of interest to that user (col. 7, lines 9-16). The system automatically constructs both a target profile for each target object and target profile interest summary for each user, which describes the user's interest level in various types of target objects (col. 5, lines 6-13). Furthermore, Herz discloses a filtering system that can search through many target objects and

estimate a given user's interest in each target object, so as to identify those that are of greatest interest to the user (col. 18, lines 10-13)

Such profile processing module which estimates each user's interest in various target objects by reference to the users' target profile interest summaries, for example by comparing the target profiles of these target objects against the search profiles in users' search profiles sets and generates for each user a customized rank-ordered listing of target objects most likely to be of interest to that user; and filtering system that can search through many target objects and estimate a given user's interest in each target object, so as to identify those that are of greatest interest to the user are considered "determining, . . . , a likelihood that the products in the product category will address the requirement. . . . when used in connection with the target substrate".

3. Herz Does not Anticipate Claims 2-4

Appellants remark that "Herz does not teach or disclose receiving a concern about the substrate".

The Examiner does not agree. Herz discloses a profile processing module which estimates each user's interest in various target objects by reference to the users' target profile interest summaries, for example by comparing the target profiles of these target objects against the search profiles in users' search profiles sets and generates for each user a customized rank-ordered listing of target objects most likely to be of interest to that user (col. 7, lines 9-16). The system automatically constructs both a target profile for each target object and target profile interest summary for each user, which describes

the user's interest level in various types of target objects (col. 5, lines 6-13). The target profile interest summary for a user represents multiple areas of interest, for example, by consisting of a set of individual search profiles, each of which identifies one of the user's areas of interest (col. 5, lines 21-25). The search profiles can be determined for a new user by asking the user to specify search profiles directly by giving keywords and/or numeric attributes, using copies of the profiles of target objects or target clusters that the user indicates are representative of his or her interest, or by using a standard set of search profiles copied or otherwise determined from search profile sets of people who are demographically similar to the user (col. 63, lines 12-23). The profiling procedure forms a rough characterization of a new user's interests by determining a number of other key attributes of the new user by on-line queries, telephone surveys or other means (col. 28, lines 46-55). Furthermore, Herz discloses diverse sorts of information are being used here to characterize consumers, from their consumption patterns to their literary taste and psychological peculiarities, and that this fact illustrates both the flexibility and power of the system for customized electronic identification of desirable objects (products) (col. 12, lines 28-33).

Such target profile interest summary for a user which represents multiple areas of interest, for example, by consisting of a set of individual search profiles, each of which identifies one of the user's areas of interest; the search profiles which determines a new user by asking the user to specify search profiles directly by giving keywords and/or numeric attributes, using copies of the profiles of target objects or target clusters that the user indicates are representative of his or her interest, or by using a standard

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set of search profiles copied or otherwise determined from search profile sets of people who are demographically similar to the user; a new user's interests by determining a number of other key attributes of the new user by on-line queries, telephone surveys or other means; and diverse sorts of information which are used to characterize consumers, from their consumption patterns to their psychological peculiarities are considered "receiving a concern about the substrate".

4. Wilmott Is Not prior Art to Applicants' Inventions and Fails to Render Claims 28 and 29 Obvious

Appellants remark that "Wilmott's 102(e) date is after the priority date of this application".

The Examiner does not agree. The Wilmott patent claims priority to three provisional applications (60/216847 (7-7-2000); 60/191,878 (3-23-2000); and 60/179,057 (1-31-2000)) that have dates that are prior to the Appellants' filing date of October 18, 2000. Furthermore, the Wilmott patent incorporates all the provisional applications. Examiner, specifically, relied on provisional application no. 60/191,878 which was cited for teaching a first set of data about the consumer's skin and the generation a set of individualized product recommendation of the consumer step comprises generating a set of individualized product recommendation from a plurality of skin-care products (Figures X3A-X3C; Figure X2) and payment (page 24, lines 18-19).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Marissa Thein *MT*

Michael Cuff 11/13/07

MICHAEL CUFF
PRIMARY EXAMINER

Conferees:



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